

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-12-25
Baltimore, Maryland 21244-1850



Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-07-26

DATE: July 6, 2007

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Communication between State Survey Agencies (SAs) and State Long-Term Care (LTC) Ombudsman

Memorandum Summary

- The Social Security Act obliges SAs to notify their respective LTC Ombudsman of certain findings of Skilled Nursing Facility (SNF) non-compliance or adverse action. In addition, the State Operations Manual (SOM) specifies additional forms of regular communication.

Purpose

The purpose of this memorandum is to remind SAs of their responsibility to maintain communication with the office of the State LTC Ombudsman in accordance with statutory and Centers for Medicare & Medicaid Services (CMS) operation requirements. The Social Security Act at §1819(g)(5)(B) and §1919(g)(5)(B) states, “Each State shall notify the State long-term care ombudsman (established under title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act) of the State’s findings of noncompliance with any of the requirements of subsections (b), (c), and (d), or any adverse action taken against a skilled nursing facility under paragraph (1), (2), or (4) of subsection (h), with respect to a skilled nursing facility in the State.”

In addition, Appendix P of the CMS State Operations Manual Section II.A.1.Task 1.C.1 requires SAs to:

“Contact the ombudsman office in accordance with the policy developed between the State survey agency and State ombudsman agency. The purposes of this contact are to notify the ombudsman of the proposed day of entrance into the facility and to obtain any information the ombudsman wished to share with the survey team. Ascertain whether the ombudsman will be available if residents participating in the group or individual interviews wish her/him to be present.”

Action Requested

SAs must ensure that a written policy exists between their State and the Ombudsman's office. Additionally, SAs are directed to contact the Ombudsman's office to ascertain if the Ombudsman's office is being contacted in accordance with the State's written policy.

Effective Date: The information contained in this memorandum is current policy and is in effect for all nursing home facilities. The SA should disseminate immediately to all appropriate survey and certification staff and training coordinators.

Training: The information contained in this announcement should be shared with all survey and certification staff, their managers, and the State/RO training coordinators.

/s/

Thomas E. Hamilton

cc: Survey and Certification Regional Office Management